HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3130 OF 2006.

Sou. Sushma Rajendra Mali. ..Petitioner.
Versus.
Ichalkaranji Urban Co-op. Bank Ltd,
Ichalkaranji & ors. ..Respondents.

Shri. A. A. Kumbhakoni with Shri. Ashutosh M. Kulkarni for the Petitioners.
Shri. Amit Borkar for the respondent No.2.

CORAM: S.B.MHASE, J.
DATE : MAY 4, 2006.

P.C.

1. Heard. Regular Civil suit No. 103 of 2006 was filed by the present petitioner against the respondent, claiming that the suit property is owned by the petitioner and thereby a further declaration that the orders passed under section 101 of the Co-operative Societies Act, 1960 cannot be executed as against the property of the petitioner. However, learned counsel for the respondent has pointed out that the auction has taken place as per the provisions of Rule 107 and, therefore, the remedy of the petitioner is to approach the concerned officer under sub-rule (13) of Rule 107 of the Maharashtra Co-operative Societies Rules, 1961.

2. In view of this, learned counsel for the petitioner makes a statement that the petitioner may be allowed to withdraw this petition with a liberty to approach the concerned officer under sub-rule(13) of Rule 107 of the Maharashtra Co-operative Societies Rules,

1961. He further submits that in order to avail that remedy the petitioner will have to deposit certain amount and in order to collect those amounts some time may be granted and, therefore, in the meanwhile protection may be granted to the petitioner. Learned counsel for the respondent has no objection for such a course being adopted.

3. Therefore, leave to withdraw the petition is granted with a liberty to approach the concerned Officer under sub-rule (13) of Rule-107 of the Maharashtra Co-operative Societies Rules, 1961 for setting aside the sale or auction as provided under the said Rule. Petitioner to file said application within a period of six weeks from today. In the meanwhile the respondent - society and the concerned Officer shall not disturb the possession of the petitioner, and further, if the application is filed by the petitioner as mentioned above, the said protection shall continue till the application is adjudicated upon and further in case it is adjudicated as against the petitioner it shall continue for a further period of two weeks after the decision so as to enable the petitioner to avail the appropriate remedy as against the said order. All contentions raised in this petition are kept open to be raised before the concerned Officer.

(S.B.MHASE, J.)